

Before

James C. Peck, Jr.
Arbitrator

In the Matter of Arbitration Between:

**FRATERNAL ORDER OF POLICE,
LODGE NO. 5**

V.

**AAA Case No. 01-17-0004-1492
P/O Gerald R. Smith (Terminated)**

THE CITY OF PHILADELPHIA

**Hearing Dates: September 6 and 18,
2018**

Decision Date: October 19, 2018

Appearances:

For the Union - Richard G. Poulson, Esq., Willig, Williams & Davidson

For the City of Philadelphia - Frank E. Wehr, II, Esq., City of Philadelphia, Law
Department

Procedural Background

This arbitration was conducted pursuant to a collective bargaining agreement between the City of Philadelphia, Pennsylvania and Fraternal Order of Police Lodge, No. 5, which is the recognized exclusive collective bargaining representative for a unit of police officers employed by the City of Philadelphia.

The City of Philadelphia and FOP Lodge 5 are parties to a collective bargaining agreement which contains, among other things, a Grievance-Arbitration procedure (Article XXI) culminating in final and binding arbitration under the auspices of the American Arbitration Association.

The instant matter arises from a grievance filed by the Union on behalf of terminated Police Officer Gerald R. Smith, alleging that Officer Smith had been terminated without just cause. Officer Smith had received a 30 day suspension with Notice of Intent to Dismiss¹ on January 31, 2017, and a Notice of Dismissal effective February 27, 2017. The Notice of Dismissal alleged that Smith had engaged in Conduct Unbecoming of an Officer, Section 1-026-10, specifically, “engaging in any action that constitutes the commission of a felony or misdemeanor which carries a potential sentence of more than a year.”

This grievance was subsequently denied by the City, and when the issues of this dispute could not be resolved under the terms of the contractual grievance-arbitration procedure, the underlying grievance was referred to the American Arbitration Association for selection of a neutral arbitrator. Subsequently, by letter dated July 5, 2017, the undersigned was appointed arbitrator in this matter.

Pursuant to a Notice of Hearing which issued on August 10, 2018, an evidentiary hearing was conducted on September 6, and September 18, 2018, at the offices of the American Arbitration Association, 230 South Broad Street, 12th Floor, Philadelphia, PA 19102. Both parties were represented by counsel, and at hearing were afforded the opportunity to examine and cross-examine witnesses, and to introduce relevant exhibits. The Grievant, Former Police Officer Gerald R. Smith, was present and participated fully in the proceeding. Both parties made oral arguments on the record.

Issues

Did the City of Philadelphia violate the express terms of the collective bargaining agreement by discharging Police Officer Gerald R. Smith without just cause? If the City is found to have violated the terms of the collective bargaining agreement, what is the appropriate remedy?

Facts

The Grievant in this matter, Police Officer Gerald Smith, Badge Number 2544, was hired by the Philadelphia Police Department in January 2000, and worked as a patrol officer in the 39th Police District. Officer Smith at all relevant times has been married to Police [REDACTED] C [REDACTED] S [REDACTED], Badge Number [REDACTED], who currently works in the [REDACTED] Unit.

The Smiths, who have been together for more than 15 years, lived in a home located at [REDACTED] along with members of their blended family. The relationship between Officer Gerald Smith and [REDACTED] C [REDACTED] S [REDACTED] apparently has been tumultuous for some time, as evidenced by the fact that Officer Smith had been previously discharged from the Police Department in 2010 for allegedly assaulting his wife. He was later reinstated in 2011, pursuant to an arbitration award.

The Initial Abuse Report:

The precipitating incident which lead to the instant matter occurred on or about October 23, 2016 when [REDACTED] C [REDACTED] S [REDACTED] notified Lt. J [REDACTED] B [REDACTED] of the [REDACTED] District that she had been the victim of an off-duty act of domestic violence, perpetrated by her husband, P/O Gerald Smith. Lt. B [REDACTED] arranged for [REDACTED] S [REDACTED] to be interviewed by the Internal Affairs Division, where the matter was assigned to Sgt. Louis Higginson.

¹ See Joint Exhibit J-2-1, in evidence.

According to the report prepared by Internal Affairs, as P/O Gerald Smith and [REDACTED] C [REDACTED] S [REDACTED] were driving together to work that morning, P/O Smith announced that he no longer wanted to be with [REDACTED] S [REDACTED] and an argument ensued. P/O Smith allegedly turned up the car radio to drown out [REDACTED] S [REDACTED], and she in turn reached for the radio volume knob to turn down the radio. She claims that P/O Smith grabbed her middle finger on her right hand and bent it, and that she heard a popping sound.

After dropping off her husband at the 39th District, [REDACTED] S [REDACTED] sought medical attention at [REDACTED] Hospital, where it was determined that she had symptoms consistent with a sprained finger. She was prescribed pain medication and was given a metal splint.² Photos were later taken of the splinted finger.³

After leaving the hospital, [REDACTED] S [REDACTED] was determined to obtain an emergency protection from abuse order. She first went to the Criminal Justice Center, where she was referred to the 8th Police District where she spoke to a Sergeant and a Lieutenant about what had happened. They, in turn, referred her to Internal Affairs for an interview.

During this interview at Internal Affairs, [REDACTED] S [REDACTED] related a history of domestic abuse, including the assault in 2010 which resulted in P/O Smith's termination, an incident in January 2016 where P/O Smith had allegedly punched her in her left eye, and an incident in June 2016 where P/O Smith had allegedly slapped her across her chest, causing bruising. [REDACTED] S [REDACTED] provided photos purported to be of these bruises to Internal Affairs.⁴

The following day, Monday, October 24, 2016, [REDACTED] S [REDACTED] applied for and was granted a temporary Protection From Abuse Order (PFA)⁵, naming P/O Smith as her abuser.

² See Exhibit C-4, in evidence.

³ See Exhibits C-6 and 7, in evidence.

⁴ See Exhibit C-8, in evidence.

⁵ See Exhibit C-8, in evidence.

Consistent with standard procedure, P/O Gerald Smith was relieved of his police-issued duty weapon and Taser, and his off-duty firearm; and was reassigned to the Real Time Crime Center, pending investigation.

The IAD Investigation Commences:

Following the issuance of the Protection From Abuse Order barring P/O Smith from having contact with his wife, an extensive Internal Affairs investigation was conducted to determine whether any violations of departmental policy had occurred. IAD interviewed and obtained statements from multiple witnesses and also assembled numerous documents.

Sgt. I [REDACTED] G [REDACTED] provided a statement to IAD that he was present at the 8th District when P/O Smith surrendered his duty weapon, and that the Grievant had commented that, "...there was an incident in the car and he may have pushed her fingers back." C [REDACTED] also related that P/O Smith had claimed that his wife, [REDACTED] S [REDACTED] accused him of having an affair with his ex-wife, and that he was, "...tired of her and he is ready to split from her."

[REDACTED] a coworker of [REDACTED] S [REDACTED] at the [REDACTED] Unit, provided a statement to IAD concerning a "black eye incident" in January 2016, where [REDACTED] S [REDACTED] appeared at work with her face heavily made-up to conceal bruising. At that time [REDACTED] S [REDACTED] claimed that she had been hit in the face by a soccer ball at her daughter's game. Later, however, [REDACTED] S [REDACTED] confided to [REDACTED] that she had been punched by her husband.

The Follow-up Report of Threats:

The ink was barely dry on the temporary Protection From Abuse Order (PFA) against P/O Smith when his wife, [REDACTED] S [REDACTED] filed a second complaint alleging that P/O Smith was stalking her and had threatened her.

█████ S █████ claimed that on November 1, 2016, she had driven her daughter to a dental appointment on Frankfort Avenue, and while waiting outside in her car, observed her husband drive past twice, once in each direction. She claimed her husband, P/O Smith, made a gesture with his hand, like pointing a gun. █████ S █████ immediately reported this incident to Internal Affairs, where her statement was taken by P/O Richard Greger.

The Referral to the District Attorney's Office:

On November 11, 2016, the Internal Affairs investigation report was sent to the District Attorney's Office, where it was assigned to James Carpenter, Chief District Attorney, Family Violence and Sexual Assault Unit. After reviewing the IAD investigatory files, DA Carpenter requested the preparation of four arrest warrants for P/O Smith, charging him with Simple Assault, Recklessly Endangering Another Person, Terroristic Threats, and Contempt of the PFA Order.

PO Smith's Investigatory Interview, Arrest, and Discharge:

On February 1, 2017, P/O Smith was summoned to Internal Affairs where he was informed of his Gnietek warnings and rights. Smith, who was accompanied by his Union representative, declined to answer questions or provide a statement. IAD then provided P/O Smith with a Statement of Charges Filed and Action Taken, notifying him that he was being placed on 30-day suspension with intent to dismiss.⁶ Smith was taken into custody on the four arrest warrants.

The Criminal Court Trial:

More than a year later, on March 22, 2018, in the matter of Commonwealth v. Gerald Smith, CP-51-0003743-2017, the criminal charges against P/O Smith were heard

⁶ See Exhibit C-16, in evidence.

in Common Pleas Court by the Hon. Daniel D. McCaffrey, in a non-jury trial. The trial transcript has been received into evidence as Joint Exhibit 4.

At trial, [REDACTED] C [REDACTED] S [REDACTED] testified about the various acts of abuse she allegedly suffered at the hands of her husband. Her story was buttressed by testimony from her co-worker, [REDACTED] and from Police Officers Lt. J [REDACTED] B [REDACTED] and R [REDACTED] G [REDACTED].

[REDACTED], PO Smith's daughter from a previous marriage, testified on behalf of the defense, as did [REDACTED], the Grievant's son. Finally, P/O Smith testified on his own behalf.

Judge McCaffrey ruled from the bench, without making any specific findings of fact. The Court dismissed all four charges, noting,

"I don't think it's credible. I need proof beyond a reasonable doubt. I don't think you have it in any one of these cases."

Thus, the criminal proceeding against Grievant Smith was concluded. But, Smith remained terminated from the Police Department for allegedly violating the Police Department's Code of Conduct, which brings us to the instant arbitration proceeding.

The Testimony at Hearing

At hearing, both parties provided witnesses who testified under oath. What follows is a brief summary of the relevant testimony of certain witnesses. To the extent that the testimony of certain witnesses is not referenced, it was viewed as either

irrelevant or duplicative. All witness testimony is considered credible, unless otherwise noted.

█████ C █████ S █████, the wife of the Grievant and the complaining party who initiated the investigation which lead to the Grievant's termination, testified that she has lived with the Grievant since about 2003, and that they have a █████ daughter together. She related three instances which she viewed as domestic violence by her husband, including an incident in January 2016 in the basement of their home where they argued over a set of car keys and where she asserts the Grievant punched her in the face with his fist.

█████ S █████ testified that she called 911, and that officers arrived, but that she recognized that they were officers that she worked with, and to avoid embarrassment, told the responding officers that they were not needed. She testified that she missed several days of work as a result of facial bruising, and that when she returned to work, she used make-up to conceal her injury. She did not file a complaint about this incident, or tell her co-workers how her facial injury occurred.

█████ S █████ testified to a second incident which occurred on June 12, 2016 in the car, on a trip to AutoZone. █████ S █████ claimed that her husband backhanded her across her face and collarbone, during an argument, because he hadn't wanted her to accompany him to the auto parts store. She later photographed her face to document this injury, and these photos were received into evidence.

According to █████ S █████, a third incident occurred on October 23, 2016, again in the car, while she and her husband were driving to work. This time, during an argument, her husband allegedly twisted her finger as she was reaching for the car radio. As a result of this incident, █████ S █████ sought medical treatment and filed a domestic violence report with the Internal Affairs Division, and also filed for a temporary Protection From Abuse Order, which was granted.

Finally, [REDACTED] S [REDACTED] testified to an incident which occurred about a week later on Frankford Avenue when she was parked in front of a dental office, and her husband drove past her twice in 5 minutes, once in each direction, and made a gesture with his hand, like shooting a gun. She viewed this as a threat and testified, "*I didn't know if he was gonna do something to me.*" She reported this incident to Internal Affairs, which took a report.

Richard Ross, Philadelphia's Police Commissioner since January 2016, testified as to the various considerations leading to the decision to discharge Grievant Smith. Ross testified that Smith's conduct, namely engaging in actions which resulted in him being charged criminally with domestic violence, was misconduct which fell short of the expectations of a Philadelphia Police Officer, and rose to the level of "conduct unbecoming of a police officer". Ross asserted that Smith's conduct, despite it being off-duty conduct, was unacceptable for a sworn police officer.

Commissioner Ross also noted that the Grievant, Officer Smith, had been discharged previously as a result of a domestic incident. He testified about his belief that Police Officers should be held to a "higher standard" and should not engage in the sort of misconduct for which they routinely arrest citizens. Ross asserted that to the best of his knowledge, all instances of police officers being arrested for domestic violence have been treated the same, with the offending officer being given 30-days notice of intent to dismiss.

Finally, Commissioner Ross testified that the nature of police work involves responding to domestic violence calls, and that in Ross' view P/O Smith's conduct rendered him incapable of performing those duties.

Sgt. I [REDACTED] G [REDACTED] from the 39th Police District, testified before me about the circumstances which resulted in his taking a statement on October 23, 2016 from [REDACTED] C [REDACTED] S [REDACTED] concerning the abuse which she suffered at the hands of her husband. He also testified about confiscating P/O Gerald Smith firearm. During this

meeting with P/O Smith, Smith admitted to Sgt. C [REDACTED] that during the "car incident" earlier that day he, "may have pushed" his wife's fingers.

Lt. Lewis Higginson, has handled more than 100 cases of alleged officer misconduct since he has been assigned to Internal Affairs, and testified before me concerning the IAD Investigation Summary and Conclusion. Higginson personally interviewed [REDACTED] C [REDACTED] S [REDACTED] on October 23, 2016, the day of the "car incident." Higginson was also able to pin-down the dates of the previous incident of domestic abuse reported by [REDACTED] S [REDACTED] utilizing police dispatch records. He also obtained the actual hospital records related to [REDACTED] S [REDACTED] treatment for her injuries at Nazareth Hospital.

[REDACTED] who has been employed by the Police Department for 29 years, was a co-worker of [REDACTED] C [REDACTED] S [REDACTED]. [REDACTED] testified before me as to the facial injuries she observed on [REDACTED] S [REDACTED], a bruise under the left eye, which [REDACTED] S [REDACTED] had attempted to conceal with makeup. Later, [REDACTED] S [REDACTED] admitted to this witness that the facial injuries she displayed had been caused by her husband, who had punched her in her face.

Officer Gerald Smith, the Grievant herein, testified before me on his own behalf. P/O Smith testified that he was hired by the Police Department in January 2000 and met his wife, C [REDACTED] S [REDACTED] on the job shortly thereafter. They married in 2010, after living together about 5 or 6 years. Officer Smith moved out of the family home in October 2016.

He described the relationship with his wife as tumultuous, and claims that his wife was "intensely jealous" of his relationships with both his male co-workers and female co-workers, and also his relationship with his ex-spouse. He claimed that they "constantly" argued about money, and claimed that his wife spent her salary on herself, leaving him to pay the household bills.

The Grievant testified that in late October 2016, his wife began planning a trip to Dubai, despite the fact that he had warned her that they couldn't afford it. Instead, his wife advised him that she had ordered the tickets to Dubai, as an anniversary surprise. It was during this conversation in the car, on October 23, 2016, on the way to work, that Officer Smith announced to his wife that he wanted a divorce. A struggle for the volume control of the car radio followed. Grievant Smith testified before me, "I slapped her hand away." He denied twisting his wife's finger.

The Grievant also presented his version of the argument in the basement of their home over the car keys, during which he allegedly punched her in the eye. He denied punching his wife, but admitted that they had argued that morning over money, and that he had shown her his negative bank balance. He claims that his wife pummeled him, and pushed him to the floor, and that he had grazed her face with his hand as she pulled his hoodie over his head. He further asserts that he left the house and didn't know that his wife had called the police until later.

Regarding the alleged "AutoZone incident", the Grievant recalls a verbal argument, and he recalls that his wife may have slapped him. He claimed that his wife had hit him many times, and that he had obtained a Protection From Abuse Order against her.

Finally, the Grievant testified that following the issuance of the Protection from Abuse Order, he was driving his son, [REDACTED] to a used car lot on Frankford Ave. when he passed a vehicle parked along the street, which he recognized as his wife's Acura MDX. Later, as he was travelling back from the auto dealership to the Police and Fire Credit Union, he saw the MDX again, and pointed it out to his son, saying, "There's my truck". He denied making any shooting motion with his hand, and denied tracking his wife, or even knowing that she would be parked on Frankford Avenue at that time.

Analysis and Discussion

As stated in the introduction of this Award, the issue to be decided herein is whether the City violated the terms of the collective bargaining agreement by discharging Police Officer Smith.

The burden of proof in discharge cases is the subject of considerable debate. What is the proper quantum of proof in deciding “just cause” for the termination of an employee? In arbitration, that determination is unsettled and generally at the discretion of the arbitrator.

Often, in a discharge case, the employer is required to prove the elements of the offense for which the employee has been discharged by a “**preponderance of the evidence**”. Black’s Law Dictionary defines this as, “*the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other. This **preponderance** is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.*”⁷ Thus, the testimony and exhibits would be placed upon the “scales of justice” and if the scales tip ever so slightly in favor of one party or the other, so must the award which follows.

This quantum of proof, however, seems inappropriate for considering cases involving discharge, particularly the termination of a long term employee, and would appear to inadequately consider aggravating and mitigating factors, should they exist.

Some Arbitrators such as Thomas G. McConnell, Jr. and Alan Symonette have argued that discharge cases should be held to a “**beyond a reasonable doubt**” standard. *FOP, Lodge 5 and the City of Philadelphia (Clarke)*, AAA Case No. 14 390 1611 06; *FOP, Lodge 5 and the City of Philadelphia (Kurowski)*, AAA Case No. 14 390 1372 98.

⁷ See *Bemis Co.*, 127 L.A. 499 (Ross, 2010).

Evidently, this standard was first adopted in England during the “Age of Enlightenment” in the 1790s, where it was believed that, *“it is better that 99 offenders shall escape than that one innocent man be condemned.”*

Black’s Law Dictionary 161 (6th ed. 1990) defines “**beyond a reasonable doubt**” as “...fully satisfied, entirely convinced, satisfied to a moral certainty. This phrase is the equivalent of the words clear, precise, and indubitable.” In the past, I have utilized this “reasonable doubt” standard, and I will probably continue to use the “**beyond a reasonable doubt**” standard in future cases where I deem it is appropriate.

The “**beyond a reasonable doubt**” standard was the standard utilized by Philadelphia Common Pleas Court Judge Daniel D. McCaffrey in deciding that the criminal charges brought against Officer Smith were to be dismissed. Judge McCaffrey heard much of the same evidence, from the same witnesses who appeared before me, but concluded that there was insufficient credible evidence to find Officer Smith guilty of any of the four criminal counts brought against him, beyond a reasonable doubt.

The Employer herein argues that Officer Smith’s misconduct, namely being charged in criminal court with an offence which is the equivalent of a felony or misdemeanor, and which carries a potential sentence of more than one year, is misconduct punishable by immediate discharge, without regard to the fact that the criminal case resulted in an acquittal.

Discharge is a penalty which has been referred to as “industrial capital punishment”, or more recently as the equivalent of “permanent exile”.⁸ Discharge has the effect of severing an employee where there is no longer any hope of rehabilitation. The sole purpose of discharge is to unburden the Employer from an individual whose conduct has become intolerable. Discharge abolishes the employment relationship, while a disciplinary suspension is designed to improve it.⁹

⁸ Schroeder, “Discharge: Is it Industrial Capital Punishment?” 37 Arb. J. No. 4, 65 (1982).

⁹ Red Cross Blood Serv., 90 LA 393, 397 (Dworkin, 1988).

There is, however, a third standard somewhere between the “*beyond a reasonable doubt*” standard, which makes it exceedingly difficult for an employer to rid itself of a problematic employee, and the “*preponderance of the evidence*” standard, which has the potential to provide insufficient protection to employees from arbitrary discharge.

Some arbitrators utilize the “*clear and convincing evidence*” standard, particularly where the employee has been accused of criminal conduct, or conduct of an especially opprobrious nature.¹⁰ Black’s Law Dictionary defines this standard as, “...*Clear and convincing proof will be shown where the truth of the facts asserted is highly probable.*”

The application of this intermediate standard serves to protect the employee from removal for comparatively flimsy reasons, but would also allow the employer to exercise its prerogative to remove a demonstrably unacceptable employee, without having to prove misconduct to a mathematical certainty. After careful and thoughtful consideration, this is the standard which I intend to use in the instant case.

The use of this standard seems particularly appropriate in situations, such as this, involving a public employee who is charged with inappropriate off-duty conduct. Public officials, such as sworn police officers, are held to a higher standard than other employees in light of the employer’s interest in maintaining the “public trust”. Arbitrators considering “conduct unbecoming” allegations against law enforcement officials have regularly adopted the “higher standard” analysis.¹¹

The Employer in the instant case is the Philadelphia Police Department which daily investigates allegations of domestic violence. Therefore, the Employer has an interest in requiring its employees to hold themselves to a “higher standard” with regard to their personal lives, so that members of the public can have confidence that any

¹⁰ See *Consulate Healthcare of Cheswick*, 127 L.A. 1336 (Franckiewicz, 2010).

¹¹ See eg. *City of Bremerton*, 121 L.A. 915 (Reeves, 2005).

complaints that they bring to the police concerning domestic violence will be treated fairly and in accordance with the law.

This case is somewhat complicated by the not-guilty verdict in the criminal case against Officer Smith. However, there are significant differences between the arbitral process and the criminal justice system. Just as the Employer may not rely solely on the findings of the Court of Common Pleas in cases where the Court concludes that there was credible evidence to warrant a criminal conviction, the Union may not rely upon a Criminal Court acquittal as proof that a grievant was innocent of misconduct. The two proceedings are separate and distinct, with different standards of proof.

Where an Employer has conducted its own investigation, and is able to demonstrate linkage between the offending off-duty conduct and the workplace, it is possible that the Employer may still be able to establish that there is just cause for termination, even if there has been no finding of criminal culpability.

Section 1-026-10 of the Police Disciplinary Code which is contained in the contract holds that Conduct Unbecoming is, *"...any action that constitutes the commission of a felony or a misdemeanor which carries a potential sentence of more than (1) year."* The Code specifically notes in clear language that neither the pendency of criminal charges nor a criminal conviction are necessary for the disciplinary action to be sustained.

There is no question that PO Smith was arrested and charged with four counts of criminal conduct, all misdemeanors. Simple Assault is a misdemeanor in the 2nd degree, subject to imprisonment for a term up to 2 years. Recklessly Endangering Another Person (REAP) is also a misdemeanor in the 2nd degree, subject to imprisonment for a term of up to 2 years. Making Terroristic Threats is a misdemeanor in the 1st degree, subject to imprisonment up to 5 years.

I further note that these charges were the result of an extensive internal investigation by the Internal Affairs Division, and were vetted by the Office of the

Philadelphia District Attorney, which was responsible for bringing these charges to trial. It is immaterial that the criminal court trial resulted in an acquittal on all counts. The Court's rationale for acquittal was that there was insufficient credible evidence to prove the allegations "beyond a reasonable doubt".

As noted previously, I am not bound by the Court's credibility findings, nor is it my intention to consider this matter utilizing the same standard of proof as applied by the Court. For the purposes of this arbitration, it is sufficient for the City, which has the burden of proof, to establish that the Grievant was charged with misdemeanors which carried a potential for imprisonment of more than one year. This is the burden set forth in the Contract. I find that the City has clearly met this burden.

The City has a legitimate interest in holding its police officers to a higher standard. Officer Smith, by virtue of the fact that he has been the subject of multiple Protection From Abuse Orders brought against him not only by his spouse but also by other family members, has acted in a manner unbecoming of a police officer, and has brought disrepute upon the police department. The fact that these PFA's have all been withdrawn by the complaining parties, or dismissed by the courts, is immaterial. The actions of the Grievant are a matter of public record, and undermine the Police Department's moral authority in domestic abuse investigations.

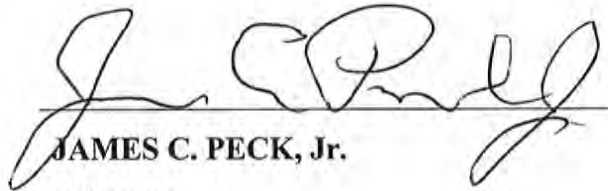
I note that [REDACTED] S [REDACTED] testified that at the time of the Hearing in this matter she was in the final stages of the process of obtaining a divorce from the Grievant.

After thorough consideration of all testimony and Exhibits, I find that there is "clear and convincing evidence" to support administrative charges brought against Police Officer Smith, which resulted in his termination. However, I make no conclusion as to the alleged November 1, 2016 incident.

AWARD

Based on the evidence, and the discussion as set forth above, the undersigned makes the following award:

1. The grievance alleging that the Police Department violated the collective bargaining agreement by discharging Police Officer Gerald R. Smith is hereby DENIED.

A handwritten signature in black ink, appearing to read 'J. C. Peck, Jr.', is written over a horizontal line.

Arbitrator

Wallingford, Pennsylvania

October 19, 2018